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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,841	12/09/1999	PATRICK H. TOMOSON	450-307US1	8133

24333 7590 07/14/2003

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EXAMINER

DU, THUAN N

ART UNIT	PAPER NUMBER
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2185

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/457,841

Applicant(s)

TOMOSON ET AL.

Examiner

Thuan N. Du

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10,16,17 and 20-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,16,17 and 20-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 36-41 have been added.
2. Claims 1-10, 16, 17 and 20-41 are presented for examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2, 8-10, 16, 17, 25, 32, 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheston et al. [Cheston], U.S. Patent No. 6,167,494<sup>1</sup>.

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<sup>1</sup> Cheston was cited by the examiner in Paper No. 3.

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6. Regarding claims 1 and 16, Cheston teaches a method of providing a known-good configuration for a computer comprising the steps of:

storing a known-good computer configuration [col. 2, lines 48-49; col. 5, lines 2-3, 17-21]; and

restoring the known-good configuration [col. 2, lines 50-53; col. 5, lines 45-47, 53-57] via non-interactive user input [col. 3, lines 10-12; col. 5, lines 43-45].

7. Regarding claims 2 and 17, Cheston teaches that the non-interactive user input is a key combination [col. 3, lines 10-12; col. 5, lines 43-44].

8. Regarding claim 8, Cheston teaches that the known-good configuration is stored on hard disk drive [col. 4, line 66 to col. 5, line 3].

9. Regarding claim 9, Cheston teaches a method of restoring a known-good configuration on a computer, comprising actuating a non-interactive user input [col. 5, line 44] that causes software (restore program) [col. 5, line 59] executing on the computer to restore the known-good configuration [col. 5, lines 43-47].

10. Regarding claim 10, Cheston teaches that the non-interactive user input is a key combination [col. 3, lines 10-12; col. 5, lines 43-44].

11. Regarding claims 25 and 32, Cheston teaches the non-interactive user input consists of actuating a single switch or key, or a simultaneous key combination of the computer [col. 3, lines 10-12; col. 5, line 44].

12. Regarding claim 34, Cheston teaches the non-interactive user input consists of actuating a single switch or key, or a simultaneous key combination of the computer [col. 3, lines 10-12; col. 5, line 44].

***Claim Rejections - 35 USC § 103***

13. Claims 3-7, 20-24, 26-31, 33 and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheston et al. [Cheston], U.S. Patent No. 6,167,494.

14. Regarding claims 3-6, Cheston teaches the whole system configuration is backed up [col. 5, lines 2-3]. One of ordinary skill in the art would have readily recognized that system configuration includes hardware configuration and software configuration. Therefore, obviously, Cheston backs up both hardware configuration and software configuration.

15. Regarding claim 7, it is a matter of design choice for storing a known-good configuration by either storing a whole new known-good configuration or storing only those changes made to the configuration since a previous stored configuration.

16. Regarding claims 20, 21, 27 and 28, Cheston states “(T)he POST/BIOS code held in ROM provides the converse function, invoked via a special key combination . . .” (emphasis added by the examiner). Obviously, Cheston’s system receives an indication that the special key combination has been actuated and restoring the known-good configuration thereafter.

17. Regarding claims 22-24 and 29-31, Cheston teaches that a user is “prompted” to store the known-good computer configuration through an indication of a successful bootup [col. 5, lines 17-21].

18. Regarding claims 26 and 33, Cheston uses a special key combination for triggering the restoration of the known-good computer configuration. Therefore, obviously, the use non-interactive user input of Cheston does not require user entry of information or interface with a graphical representation to function.

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19. Regarding claim 35, Cheston teaches the restoring step is processed before operating system is fully loaded (during bootup) [col. 5, lines 43-45]. Therefore, obviously, Cheston restores the known-good configuration without rebooting the computer.

20. Regarding claim 36, Cheston teaches a method of providing an updated known-good configuration for a computer, comprising:

determining an updated configuration is a known-good configuration for the computer [col. 5, lines 19-21];

storing the determined known-good updated configuration to a know-good data storage device [col. 2, lines 48-49; col. 5, lines 2-3, 17-19];

receiving a non-interactive user input for restoration of the computer to the known-good configuration [col. 3, lines 10-14; col. 5, line 44]

restoring the known-good updated configuration upon reception of the non-interactive user input [col. 2, lines 50-53; col. 5, lines 43-47].

Cheston does not explicitly teach the known-good configuration is a combination configuration of software and hardware configurations. Cheston teaches the whole system configuration is backed up. One of ordinary skill in the art would have readily recognized that system configuration includes hardware configuration and software configuration. Therefore, obviously, Cheston backs up both hardware configuration and software configuration.

21. Regarding claim 37, , Cheston teaches the restoring step is processed before operating system is fully loaded (during bootup) [col. 5, lines 43-45]. Therefore, obviously, Cheston restores the known-good configuration without rebooting the computer.

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22. Regarding claim 38, Cheston teaches that a user is “prompted” to store the known-good computer configuration through an indication of a successful bootup [col. 5, lines 17-21].

23. Regarding claim 39, Cheston teaches that the non-interactive user input is a key combination [col. 3, lines 10-12; col. 5, lines 43-44].

24. Regarding claim 40, Cheston uses a special key combination for triggering the restoration of the known-good computer configuration. Therefore, obviously, the use non-interactive user input of Cheston does not require user entry of information or interface with a graphical representation to function.

25. Regarding claim 41, Cheston teaches that the known-good storage device is a hard drive [col. 4, line 66 to col. 5, line 3].

### ***Conclusion***

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 or via e-mail, **thuan.du@uspto.gov**. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Thomas C. Lee can be reached on (703) 305-9717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

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The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238 [After Final Communication]
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]


and/or:

(703) 746-5668 (use this fax number, only after approval by Examiner, for “INFORMAL” or “DRAFT” communication).

Hand-delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA 22202  
Fourth Floor (Receptionist).

Thuan N. Du  
June 30, 2003



THOMAS LEE  
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